

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

MONSANTO COMPANY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No.: 3:00CV161-P-D
	)	
MITCHELL SCRUGGS, <i>et al.</i>	)	
	)	
Defendants.	)	

**MONSANTO COMPANY’S MOTION IN LIMINE NO. 16 AND**  
**BRIEF IN SUPPORT**

Plaintiff Monsanto Company (“Monsanto”), by its attorneys, respectfully requests this Court to enter an Order *in limine* prohibiting Defendants, their witnesses, experts and attorneys from making any reference whatsoever to matters set forth below:

**(Governmental Agency Inquiries Into Monsanto’s Business Practices)**

Any remarks, evidence or testimony regarding any informal or formal state or federal governmental agency inquiries, investigations, subpoenas, workshops, etc. relating to any of Monsanto’s business practices should be excluded. Defendants have, unsuccessfully, challenged Monsanto’s business practice of, *inter alia*, licensing growers to plant crop seed containing its biotechnology solely in a single season. *Monsanto v. Scruggs*, 459 F.3d 1328 (Fed. Cir. 2006); *see also Monsanto v. Scruggs*, 342 F.Supp.2d 568 (N.D. Miss. 2004).

Monsanto anticipates that Defendants may seek to inflame or confuse the jury and once again argue that Monsanto’s single-use licensing system and/or other business practices are somehow improper through prejudicial remarks regarding past or present inquiries by state or federal governmental authorities and/or agencies relating in any way

to one or more of Monsanto's myriad of business practices. Such evidence, of course, is irrelevant and is not probative of any fact of consequence in this case and is therefore not relevant. *U.S. v. Miller*, 520 F.3d 504 (5th Cir. 2008) (upholding exclusion of evidence "not probative of any fact of consequence and was properly excluded"); *see also United States v. Hollister*, 746 F.2d 420, 422 (8th Cir. 1984) ("Evidence must be probative of a fact of consequence in the matter. ...").

Further, the probative value of any such evidence will be substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. *See BoDean's Cone Company, L.L.C. v. Norse Dairy Systems, L.L.C.*, 678 F. Supp. 2d 883, 896-98 (N.D. Iowa 2009) (granting Motion in Limine regarding Iowa Attorney General actions and inactions); *In Re Tenet Healthcare Corp. Securities Litigation*, 2007 WL 5673884 (C.D. Cal. December 5, 2007) (granting Motion in Limine regarding party's settlement with United States Department of Justice and evidence relating thereto).

Moreover, the probative value of any such evidence will be further outweighed by considerations of undue delay and waste of time as allowing such evidence would result in a trial within a trial as Monsanto would be inclined to rebut any baseless claims that any of Monsanto's business practices are improper. *See* FED. R. EVID. 403.

Accordingly, Monsanto respectfully requests this Court exclude all evidence related to any informal or formal state or federal governmental agency inquiries, investigations, subpoenas, workshops, etc. relating to any of Monsanto's business practices.

WHEREFORE, Monsanto respectfully requests that the Court issue an order granting this motion.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 14<sup>th</sup>, 2010, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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I hereby certify that on July 14<sup>th</sup>, 2010, I mailed by United States Postal Service the document to the following non-ECF participants:

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/s/ Joseph C. Orlet